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April 16, 2012

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
Room TW-A325
445 12th Street, SW
Washington, DC 20554

Re: *Connect America Fund*, WC Docket No. 10-90; *A National Broadband Plan for Our Future*, GN Docket No. 09-51; *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, *High-Cost Universal Service Support*, WC Docket No. 05-337; *Developing* a *Unified Intercarrier Compensation Regime*, CC Docket 01-92; *Federal-State Joint Board for Universal Service*, CC Docket No. 96-45; *Lifeline and Link-Up*, WC Docket No. 03-109.

Dear Ms. Dortch:

On Thursday, April 12, 2012 on behalf of the Carriers for Programs in Rural America ("CPRA")[1], Trey Judy of Bluffton Telephone Company, Donna Bullard of Star Telephone Membership Corporation, and the undersigned met with the following individuals to discuss the above-captioned proceedings: Angela Kronenberg, Wireline Legal Advisor to Commissioner Clyburn, Christine Kurth, Policy Director & Wireline Counsel to Commissioner McDowell, and Steve Rosenberg, Katie King, Roger Woock, Craig Stroup, James Eisner, Trent Harkrader, Gary Seigel, and Wes Platt, all of the Wireline Competition Bureau. The discussions primarily focused on the need for the Commission to address a number of technical problems with its proposal to retroactively cap reimbursable capital and operating expenses. In addition, the importance of phasing out Safety Net Additive support over five years, rather than a flash cut, was discussed.

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[1] CPRA includes the following carriers: Bluffton Telephone Company, MGW Telephone, Inc., Piedmont Rural Telephone Cooperative; Public Service Telephone Company; Smithville Communications, Inc.; Star Telephone Membership Corporation; and Valley Telephone Cooperative, Inc.

The primary points CPRA made during its ex parte presentations are described in the document that is attached and which CPRA also distributed during its meetings. In particular, the attendees emphasized that carriers will not know whether their expenses will exceed the 90th (or 85th or 95th) percentile at the time they are making financial and operating decisions since they will not know what their peers are doing until it is too late. The unpredictability of the support will thus serve a substantial deterrent effect on network investments. The participants thus advocated that any such caps on reimbursable expenses be applied prospectively, rather than retroactively, with respect to new investments. Moreover, unless all carriers are eligible for support increases based on any recycled support that becomes available, companies will be further deterred from investing even in those projects that do not require USF support for fear of exceeding the caps.

The attendees expressed support for the arguments made in the April 10, 2012, letter from Clay Strugis, Moss Adams, LLP, to Marlene Dortch, Federal Communications Commission. In addition to the technical flaws with the proposed regression model identified in that letter, the attendees noted that there are additional cost drivers that the Commission's model fails to address. In light of the numerous of technical flaws and conceptual problems that have surfaced, the attendees urged the Commission provide an opportunity for further comment. In addition, while the attendees urged that any caps should be prospective in nature, they stated that, at minimum, the Commission should impose a one-year "test run" so that carriers can determine who their similarly situated peers are before they are retroactively subjected to the caps—a concept that has been endorsed by the U.S. Telecom Association and Moss Adams.

In addition, the attendees discussed the substantial blow that a rapid loss of Safety Net Additive ("SNA") support would cause. The attendees urged the Commission to adopt a five-year transition rather than a flash cut in SNA, consistent with what is being provided to the competitive ETCs with which rate-of-return carriers compete.

Please direct any questions to the undersigned.

Sincerely,

/s/

Gerard J. Waldron
Elizabeth H. Canter
Counsel to Carriers for Progress in Rural America

Attachment

Carriers For Progress In Rural America

Bluffton Telephone Company
MGW Telephone, Inc.
Piedmont Rural Telephone Cooperative
Public Service Telephone Company
Smithville Communications, Inc.
Star Telephone Membership Corporation
Valley Telephone Cooperative, Inc.

Ex Parte Presentation
April 12, 2012

I. The Commission should remedy errors in its regression analysis that will otherwise limit CAPEX and OPEX in an unpredictable and arbitrary manner.

- <u>Retroactive caps will punish past decisions and not lead to prudent investment</u> decisions, thus defeating a goal of this proceeding. Under the proposed framework, the caps will be based on exogenous factors that are that are unknown to a carrier at the time when it is making financial and operating decisions. Carriers simply will not be in a position to manage costs to align with their peers because they will not know what their peers are doing until it is too late. In contrast, prospective limits on future CAPEX and OPEX may be appropriate if properly developed and implemented.

- <u>The Bureau should understand the perspective of decision makers preparing capital budgets</u> for the following year. The uncertainty and unpredictability of the proposed regression-based framework will chill new network investments, even those that are economically efficient and which would further the Commission's goals of developing the nation's broadband infrastructure and promoting innovation.

- <u>At minimum, the Commission must address the technical flaws in model.</u> Specifically, the regression methodology needs to account for the universe of relevant cost drivers that affect capital and operating expenses incurred by rate-of-return carriers.
  - Bluffton Telephone Company serves an area where weather and environmental concerns mandate that the company bury most of its plant.
  - The salinity, moisture, and seasonal storms in the region create very high maintenance costs. The current regression model does not capture these factors, but they definitely impact carrier costs. A regression model that fails to capture the relevant cost drivers will reduce support substantially, albeit in an arbitrary and capricious manner.

- <u>Recycled support.</u> All carriers should be eligible for support increases based on any support that becomes available as a result of the caps. Under the current proposal, if a company moves forward with an investment that triggers one of the eleven caps, the company will lose this "recycled HCLS." As a result, companies will move forward with such investments only if they expect to recover from their end users not only the cost of a new investment, but also the foregone recycled HCLS revenues. The incentive will be for companies to reduce their investments and expenses, and potentially reduce the quality of service and innovative offerings to their customers.

- Regression model needs to be transparent, with additional comment opportunity. Given the volume and seriousness of the technical issues that have been identified, the Commission should, at a minimum, issue a revised regression model for comment. Affected companies need to review a methodology that looks to all relevant cost drivers, runs on the correct data, and incorporates fundamental changes that may be appropriate, such as by making the caps prospective -- rather than retroactive -- in nature.

II. The Commission should not phase out of safety net additive support ("SNA") on the same schedule for incumbent LECs as for CETCs.

- Carriers have come to rely on SNA in recent years, and given all the other changes in both high-cost support and ICC reform, the rapid loss of SNA to these carriers represents another blow.

- In addition, because the Commission maintains support for competitive ETCs for the five-year period of the phase-out of the identical support rule, the accelerated phase-out for rate-of-return carriers creates a competitive imbalance that fails to treat all market participants equally.

- Accordingly, the Commission should grant the request of the U.S. Telecom Association to schedule the phase-out of SNA over a five-year period.